

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

In re:

THE FINANCIAL OVERSIGHT AND
MANAGEMENT BOARD FOR PUERTO
RICO,

as representative of

THE COMMONWEALTH OF PUERTO
RICO, et al.,

Debtors.¹

PROMESA

Title III

No. 17 BK 03283-LTS

(Jointly Administered)

In re:

THE FINANCIAL OVERSIGHT AND
MANAGEMENT BOARD FOR PUERTO
RICO,

as representative of

THE EMPLOYMENT RETIREMENT
SYSTEM OF THE COMMONWEALTH
OF PUERTO RICO (“ERS”),

Debtor.

PROMESA

Title III

No. 17 BK 03566-LTS

**INFORMATIVE MOTION OF THE INDIVIDUAL PLAINTIFFS RETIREES AND
BENEFICIARIES OF THE ERS TRUST REGARDING THE SIXTH MODIFIED
EIGHTH AMENDED TITLE III JOINT PLAN OF ADJUSTMENT OF THE
COMMONWEALTH OF PUERTO RICO, ET AL. AT ECF # 19784 AND ECF #19785**

¹ The Debtors in these Title III cases, along with each Debtor’s respective Title III case number and the last four (4) digits of each Debtor’s federal tax identification number, as applicable, are the (i) Commonwealth of Puerto Rico (Bankruptcy Case No. 17-BK-3283 (LTS)) (Last Four Digits of Federal Tax ID: 3481); (ii) Employees Retirement System of the Government of the Commonwealth of Puerto Rico (“ERS”) (Bankruptcy Case No. 17-BK-3566 (LTS)) (Last Four Digits of Federal Tax ID: 9686); (iii) Puerto Rico Highways and Transportation Authority (Bankruptcy Case No. 17-BK-3567 (LTS)) (Last Four Digits of Federal Tax ID: 3808); (iv) Puerto Rico Sales Tax Financing Corporation (Bankruptcy Case No. 17-BK-3284 (LTS)) (Last Four Digits of Federal Tax ID: 8474); and (v) Puerto Rico Electric Power Authority (Bankruptcy Case No. 17-BK-4780 (LTS)) (Last Four Digits of Federal Tax ID: 3747) (Title III case numbers are listed as bankruptcy case numbers due to software limitations).

TO THE HONORABLE COURT:

Individual plaintiffs, Pedro José Nazario Serrano; Joel Rivera Morales; María de Lourdes Gómez Pérez; Héctor Cruz Villanueva; Lourdes Rodríguez y Luis M. Jordán Rivera, all of them Retirees/Beneficiaries and Plaintiffs in a claim for damages described below that is currently pending in the Commonwealth of Puerto Rico Court of First Instance, San Juan Part (the “Commonwealth Court”) without submitting to the jurisdiction of this Court, very respectfully State and Pray as follows:

1. On January 14, 2021, the Individual Plaintiffs and Beneficiaries of the Employees Retirement System filed an *Urgent Objection to the Modified Eighth Amended Title III Joint Plan of Adjustment of the Commonwealth of Puerto Rico, et al.* (ECF # 19766), in which they recorded their objection to the inclusion of the case entitled *Administración de los Sistemas de Retiro de Empleados del Gobierno y la Judicatura de Puerto Rico v. UBS Fin. Servs. Inc. of Puerto Rico*, Civ. No. KCA-2011-1067 (803) (the “ERS Commonwealth Court Action”) in the definition of ERS Litigation, in the previous Article 1.224 of the previous Plan of Adjustment filed on December 21, 2021 (ECF # 19568). The Individual Plaintiffs averred that the ERS Commonwealth Court Action has nothing to do with the Title III Proceedings pending before this Court, that the jurisdiction of this Court under the provisions of the *Puerto Rico Oversight, Management, and Economic Stability Act* (PROMESA)² over the ERS Commonwealth Court Action is lacking, and, therefore, the inclusion of the said case should be removed and eliminated from the ERS Litigation definition in the proposed Plan of Adjustment.

² 48 U.S.C. §§ 2101-2241

2. On that same date, this Honorable Court entered an Order at ECF # 19779, scheduling a briefing of the *Urgent Objection of the Individual Plaintiffs*, and ordering the Oversight Board to file a Reply by January 17, 2022, at 12:00 pm.

3. Subsequently, the Oversight Board filed a newly proposed *Sixth Modified Eighth Amended Title III Plan of Adjustment of the Commonwealth of Puerto Rico et al.* (ECF # 19784) and a *Notice of Filing of Modified Eighth Amended Title III Joint Plan of Adjustment of The Commonwealth of Puerto Rico, et al.* (ECF # 19785) dated January 14, 2022, in which, in its Article 1.224, the ERS Commonwealth Court Action was correctly removed or stricken from the definition of ERS Litigation. *See* ECF # 19785 p. 61 (stricken in red) and ECF # 19784 p. 56 (the ERS Commonwealth Court Action does no longer appear in the definition of ERS Litigation).

4. The Individual Plaintiffs inform and aver that the controversies that were raised in their *Urgent Objection to the Modified Eighth Amended Title III Joint Plan of Adjustment of the Commonwealth of Puerto Rico, et al.* (ECF # 19766) are moot inasmuch as the ERS Commonwealth Court Action was stricken from the ERS Litigation definition **by the Oversight Board**. The exclusion of the ERS Commonwealth Court Action from Article 1.224 of the proposed Plan of Adjustment at ECF # 19784 resolves the Individual Plaintiffs' concern and, therefore, no further action from this Court is required concerning the objection filed by the appearing parties. Thus, it is respectfully requested that this Court take notice, and proceed accordingly.

5. In sum, insofar as the ERS Commonwealth Court Action was stricken and removed from the definition of ERS Litigation in Article 1.224 of the *Sixth Modified Eighth Amended Title III Plan of Adjustment* at ECF # 19784, resulting in that the case will continue to go forward before the Commonwealth Court, and if this Honorable Court is inclined to confirm Article 1.224 as proposed, the controversies raised by the Individual Plaintiffs at ECF # 19766 are moot.

WHEREFORE, the Individual Plaintiffs respectfully request this Honorable Court take notice of the above, and proceed accordingly.

Respectfully Submitted.

In San Juan, Puerto Rico, this 16 day of January 2022.

WE HEREBY CERTIFY: That on this same date a true and exact copy of this motion was filed with the Clerk of Court using CM/ECF system, which will notify a copy to counsel of record. Also, copy of this document will be notified via electronic mail to all case participants.

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